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Proceedings of an inservice conference on teacher militancy and collective bargaining are reported. Section one presents resumes of speeches delivered by experts from the fields of law, business, labor arbitration, and professional negotiations. Topics of the speeches include new developments in professional negotiations, arbitration in public employment, the role and objectives of the American Federation of Teachers, and the Denver Classroom Teachers Association agreement. Section two reports activities of eight task force groups dealing with subjects such as (1) teacher militancy, (2) use of the labor union framework in public employment, (3) the American Federation of Teachers-National Education Association rivalry, (4) use of the strike and other stoppages among teachers, (5) the problem of which public employees should be covered by State negotiation statutes, (6) the problem of what issues are negotiable, (7) the problem of impasses, and (8) the problem of enforcement and administration. The final two sections present results of conference mock bargaining sessions and a listing of conference participants. (TT)

LABOR LAW AND EDUCATION

Report of the Work Conference on Collective Bargaining

July 8-19, 1968

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EDITED BY: M. CHESTER NOLTE, COORDINATOR

UNIVERSITY OF DENVER • DENVER, COLORADO

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Report of the Work Conference
on Collective Bargaining
July 8-19, 1968

Edited by

M. Chester Nolte
Coordinator

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Denver, Colorado
University of Denver
September 1968

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INTRODUCTION

Each summer, the School of Education at the University of Denver offers an in-service work conference for the convenience of school administrators and others on some current problem in the field. During the summer session of 1968, the most pressing problem appeared to be the question of teacher militancy. Accordingly, a conference was held on campus during the two weeks of July 8-19, 1968. Thirty-one participants took part in the activities of the conference, which included for each participant active participation in collective bargaining between teams of participants, as well as involvement in two of the task force groups. Early reactions to the conference were encouraging: participants told us they felt, through having participated in the process, that they now knew about the process and understood it better, and that they furthermore had a broader background of information on collective bargaining than they had had at the inception of the conference.

Five outstanding consultants from the fields of law, business, labor arbitration, and professional negotiations appeared before the group during the two weeks' period. Limited space in this report does not allow for full reproduction of their speeches; however, the essential structure of their remarks is faithfully reported here. Also reproduced here are the findings of the Task Force Groups. During the first week, Task Force Groups A through D sought information on questions related to teacher militancy, the AFT-NEA rivalry, applicability of the labor union framework in private industry to the problems of negotiations in the public sector, and the use of the strike and other work stoppages by teachers. During the second week, Task Force

Groups E through H acted as legislative research committees, seeking to deal with the problems confronting legislators today in enacting legislation on collective bargaining in the public sector. The problems of the second week were related to coverage, negotiability, impasse resolution and the administration and enforcement of the state statute. Along with the reports of the Task Force Teams, this document also contains an evaluation of the work of the bargaining teams, and the names and addresses of the participants in the work conference.

It is a truism that administrators, teachers, personnel directors, and school board members today need to know the facts about collective bargaining and understand the role each side of the table is to play in reaching defensible agreements in public education. It is the hope of the School of Education that such learnings have been possible in the conference.

We wish to pay special thanks to Dr. Harry Seligson, University of Denver School of Business Administration; Mr. Herrick Roth, President, Colorado Labor Council; Mr. John Phillip Linn, Professor of Law, University of Denver; Mr. Wendell Newman, Director of Field Services, Colorado Education Association; and Mr. Allerton Barnes, President, Denver Classroom Teachers' Association for their kindness in addressing the group and sharing their broad experiences. Without such devoted and capable assistance, the work conference would not have been possible.

M. Chester Nolte
Coordinator

KEYNOTE ADDRESS

Dr. Harry Seligson
Professor of Labor Relations
University of Denver

The process of collective bargaining is changing rapidly, but with enough stability to allow for some predictability. My task today is to delineate the perimeters of this field, and to point up some questions without giving any ready-made answers.

My remarks will be divided into three parts: 1) some background statistics, 2) a review of the factors which have impact upon employment relations in the public sector, and 3) similarities and differences between bargaining in the private and public sectors.

Background statistics. There are now 80 million people in the labor force. Sixteen per cent of these, or about 12 million workers, are employed in the public sector; that is, they work for government. In the federal employment, union membership rose from 900,000 in 1955 to more than 1,500,000 at present. The American Federation of State, County, and Municipal Employees membership rose from 100,000 to 500,000 during the same period, while the membership of the American Federation of Teachers rose from about 30,000 to approximately 150,000 today. Ninety-nine per cent of all cities of 25,000 or more population in this country have one or more employee organizations to deal with today. And 45 per cent of all public employees are in units represented by the unions.

Another indication of the interest in this field is in the number of work stoppages among public employees. In 1966, there were some 150 such stoppages; in 1967, there were more than 250; and in 1968, there will be at least that many if not more. Many of these stoppages have been by teachers who are seeking contracts with their school boards. These no doubt will continue. A recent poll by the National Education Association showed that the percentage of teachers who believe that teacher strikes are justified rose from 53 per cent to more than 68 per cent in the last three years. At the same time, those teachers who thought that teachers should never strike fell from 38 per cent to 23 per cent of those contacted. There is now a general feeling among most teachers that if conditions are bad, a teachers' walkout may be justified on that basis alone.

There are presently 18 states in which there is no statute against strikes by government employees, while court decisions prohibit teacher strikes in 12 more. Ten states now require mandatory collective bargaining with public employers, three states permit it, and three more allow governmental employees to meet and confer with management. The situation is by no means settled at the present time.

Factors having impact on teacher bargaining. Some deep-seated changes have come about in the ecology of school systems. These have led to teacher militancy and unrest.

1. A shift in the composition of the labor force. Of the 80 million workers today, white collar workers now outnumber the blue collar workers. Unions must therefore compete for the largely unorganized portion of the labor force if they are to survive and grow.

2. Education is becoming the principal industry in this country. It is a service industry, and is fast replacing other industry in this country in terms of those employed and in the economic impact of its operation.

3. More emphasis is being placed by our affluent society on the

rising expectations of its people. (Galbraith: The Affluent Society). Per capita income has increased, the standard of living has risen, there is better distribution of goods, and we are fast becoming a consumer society. We tend to become less and less satisfied with what we have. Those who have more, want more. Hence, unrest is created all along the line.

4. We are in a period of unrest and uncertainty, a period of transition. What should our new goals be? People often strike out at times when our goals are unclear, or we are threatened.

5. The institution of education, the schools, are replacing the home as the dominant institution in society. This has widespread implications for educators and for boards of education.

6. The behavioral sciences, especially social psychology, now place considerable emphasis on the importance of participation in the decision-making process. This applies to workers, parents, laymen, taxpayers, and others as well as to teachers.

All these factors have grave implications for teachers who wish to become involved in the decision-making process which affects them and their work.

The collective bargaining process. What are the similarities and differences between collective bargaining in the private and public sectors? Let us examine the background of collective bargaining in the private sector as background.

Opposition to unions rests on a two-plank ideology:

a. The economic plank: this notion is that we are a market economy. Prices are determined by the market. Labor is only one of the factors in production. Supply and demand normally keeps all these factors in equilibrium. When a labor union comes into the picture, it introduces an alien aspect into this normal situation. Hence, the courts held that forming a labor union and approaching management was a "conspiracy" against an immutable law.

b. The ownership of property plank: This notion held that the law should favor the owner-manager of the enterprise rather than the worker. This concept was overruled in the private sector in 1935 by public policy through the passage of the National Labor Relations Act. In 1938, the U.S. Supreme Court upheld this legislation and opened the door to labor union-management negotiations. Gradually some of the opposition to labor unions disappeared, but much still remains. Now labor unions enroll more than 18 million workders.

Many of the events which took place in the private sector may take place in the public sector in the months ahead.

The public sector of the economy. There are currently two planks in the ideology related to the public sector:

a. The sovereignty plank: This is the notion that is as sacrosanct to those who hold it as the notion that private ownership of property should be protected at all costs. The notion holds that a public agency is delegated by law certain prerogatives to fulfill certain functions in the public interest, and that it may not divest itself of these powers and functions conferred upon it by law. To do so would amount to a divestiture of its responsibility.

b. Professionalism: This notion holds that a traditional profession cannot stoop to bargaining, that a teacher is a professional person, with a high degree of education, a certain level of ethics, seeking self-improvement, altruistic, dedicated, and above reproach in every way. Can such a person engage in labor activities? Does professionalism lead to the conclusion that it is not suitable for teachers to engage in activities related to collective bargaining? Or (by inverse logic) is employee representation a re-affirmation of professionalism?

Are there any serious insurmountable differences between the public and private sectors? Does it make any difference whether one is working in the public or private sectors of the economy? Should not all workers have certain fundamental rights?

Other questions: Who is the employer in public employment? There is no question who is the employer in private employment. But in the public sector, is it not possible to have two employers, one at the local level and another at the state level?

What kind of a law, if any, is needed? How can the law be adjusted to account for already existing statutes? What is negotiable? The NLRB has had thousands of cases on allegations that the employer has refused to bargain on certain issues. So very laboriously and slowly, through court case after court case, the structure which we have today in the private sector took shape. No doubt such a procedure will be necessary in the public sector before everything comes into balance.

You of the conference have a real challenge as you meet and confer over these problems in the two weeks ahead. I wish you the best of everything as you begin your deliberations.

NEW DEVELOPMENTS IN PROFESSIONAL NEGOTIATIONS

Wendell Newman
Director of Field Services
Colorado Education Association

Introduction

I am honored to be asked to appear before the work conference and confer with you on problems related to professional negotiations (PN). I have worked in this field for only a short time, and do not purport to have all the answers. Anyone who can claim he has all the answers is really not entirely honest, because it is an area which is rapidly changing, and will continue to change from what it currently is. The limits of the field are literally the limits of human imagination.

Today I want to talk with you about some of the "spin-off" developments related, but not central to, Professional Negotiations. These might be outlined as follows: 1) What is PN doing to the professional organization? 2) What is PN doing for the professional organization? 3) Why do we need a PN law? 4) What is the meaning of professionalism? 5) Can the professional organization stand the test of PN responsibility? and 6) Why the time lag in educational change? These will be dealt with not in depth but by one who is an observer noting change as it has happened in the field.

The NEA. I have just returned from the NEA convention in Dallas. While there, I heard discussions about what is happening in other parts of the country. For example, there are attempts here and there to negotiate personnel transfers in some districts, and attempts to negotiate curriculum matters. Apparently, practically nothing is un-negotiable, although at present there are some honest differences of opinion as to what constitutes administrator prerogative as contrasted with what is rightfully for teachers to help decide. This is only natural when things are happening so fast in the negotiations area, and is probably to be expected.

Also, in some areas of the country there is discussion about the "agency" shop, an arrangement whereby all teachers in a district pay some kind of representation fee to the major organization representing most of the teachers, regardless of whether they belong to that organization or not. This will stimulate participation and eliminate "free-riders" among teachers. Another idea discussed was the master agreement contract of a comprehensive type, although this is not as common in our state. It is the Level IV agreement, containing a salary schedule and all the things which teachers have won; it is a total package. This is related to the concept that everything is negotiable, and all that is negotiated is put into one package. It is also related to strategy, since teachers tend to hold until the last in the negotiating process those things which they most want, such as salaries.

Observations on PN. Negotiation has brought professional organizations face to face with the question of whether school administrators and teachers can stay in the same organization. We are facing it here in our state, and so are most of the other states. Can the administrator live with what the teachers want their organization to produce for them? This question is doing more to change organizational patterns than any other question. We are promoting at CEA a PN law to be introduced in 1969 to the legislature. We believe that school boards should be mandated to deal with school teachers in all the districts of the state. Before we do that we must reach some workable agreement within our own ranks as to what is an acceptable law for our state. An impasse may be developing in this area. But differences of opinion do not follow occupational lines. Some teachers think one way, some another; so do administrators. There is some indication that CEA will split on this issue, as did Florida and Michigan. I hope we can solve the problem without splitting into fragmented groups, but one must be optimistic to think that this may not happen.

Observations on organizations. Negotiations has shown us how important our organizations are. We are no longer a club, but a unified, cohesive organization with strength, and we need to be that if we are to get the most out of the organization. It is obvious to most teachers today that there is more to an organization than just its social side; our organization is a life-line to better things. We are learning human relations through our professional organization; we learn how the other fellow feels. Communications are improved, and an awareness awakened as to how others feel and how the organization can improve understandings between all groups in education.

A PN law. My judgment is that all states need a PN law. We need a PN law in Colorado, not for those districts which have PN agreements now, but for those who do not. Such a law would bring into focus the need for negotiations between boards and teachers, and would require the board to develop agreements where now teachers do not have such rights. Many school boards would not do this unless they were required by law to do so. It would help the smaller districts, but there is some resistance from school boards, local associations, and even from teachers and administrators who maintain that such a law is not necessary. But at present the situation is clouded, and even though we have more than forty agreements in Colorado, which has no law of any kind, we need a clarification through legislation of what the rights and responsibilities of the parties are and what can and cannot be done in professional negotiations.

Professionalism. The term professionalism to me is a state of mind, based on identity. We tend to identify more readily where the standards are higher and it is more difficult to get into the organization. Pride in our organization will make us do better work, because excellence is a norm of the group. We are proud when we belong to an organization which is difficult to get into. Thus, I am not disturbed by whether a teacher takes on some of the tactics of the labor union, since this is not a measure of professionalism, but rather whether a teacher feels proud of his work and want to improve himself.

Do you feel professional? secure? competent? Just because you may wish to carry a picket sign is no measure of whether you are or are not professional. The fact that you do this may mean that you are indeed a professional teacher, who wishes to draw attention to the fact that conditions in the schools are bad. Your professionalism is the extent to which you are dedicated to better educational opportunity for boys and girls. I saw in Florida that teachers can be so concerned about conditions that they are willing to carry picket signs and even discontinue work in order to draw attention to conditions in the schools. I believe that this is true professionalism, and I heartily endorse it. No teacher is un-professional just because he draws attention to the need for better schools.

The test of PN. PN has reached the stage where it is beginning to test the local organizations insofar as the responsibility to implement and to live with the agreement is concerned. We must accept the financial responsibility which greater negotiation activity will surely bring. It cost the NEA, for example, some $2.6 million in Florida, and that's a conservative estimate. Third party resolution of impasses will cost a lot of money, too, especially since you must hire help from outside the profession to resolve the impasse. It will cost money, and the local organization must have money handy for this purpose. School boards will have to set aside more money in their budgets for this purpose. The employment of full-time negotiators for both sides will cost more money. This will test the locals and new dues structures will have to be initiated. The NEA is concerned about this and so is the CEA. A new financial responsibility will have to be faced if PN is to succeed in the way it can succeed.

Why time lag? The AFT-NEA rivalry has brought a "two-party" system to education. This is good and stimulating all around. Since 1961, when New York City taught us a lesson, the NEA has strengthened itself all along the line. It would not have happened, at least not as rapidly, without the AFT rivalry. Competition is not all bad, and has shown us that we cannot expect things to happen alone.

The speed of change must keep up and the time lag must be shortened. Many sociological problems are being fought out in the schools, and these cannot be ignored by teacher groups.

Merger between AFT and the NEA? We know that we do have a common enemy: APATHY -- public apathy, school board apathy, administrator apathy, some apathy within the profession itself. Whether the two will be driven together by this common enemy only time will tell.

Finally, as to withdrawal of services: this is the pressing problem as I see it. We must decide, along with the AFT, within the very near future whether work stoppages are justified, and under what conditions. This is the ultimate question which must be decided if PN is ever to reach an even balance in this country. You have a real challenge in the two weeks ahead of you in this work conference to deal realistically with this problem, together with all the other problems which make this such an interesting field of study today.

ARBITRATION IN PUBLIC EMPLOYMENT

John Phillip Linn
Professor of Law
University of Denver

Introduction

This is an important conference at this particular time. We seem to be only at the threshold to the problems of the public employee. Many of you will be working in the months ahead to try to resolve these problems, and it is only logical that the University should provide you with a background in this area. The Colorado Municipal League, the Education Commission of the States, and the University of Colorado, in addition to the University of Denver have been conducting meetings on the problem this summer. The Colorado Legislative Council has also conducted hearings on possible legislation dealing with the problem. Other states have enacted legislation; for example, Montana has enacted a statute which goes only to nurses. The primary question at this point then well may be, "*Should there be separate legislation for each of these separate groups, such as firemen, teachers, or garbage workers?*" I would say no. I fail to see that the problems of each group are unique enough to warrant separate laws for each. I would, therefore, favor one law to cover all governmental workers and one administrative agency to administer the law. Our legislature may only go so far as to enact legislation which would prohibit the strike, and I think this would be most unfortunate if they went only that far. There is a real need for a full and complete statute to clarify the process and to bring into focus the need for governmental employees to meet and confer with their employers, the government. So the legislature must consider who shall be covered, what agency shall administer the law, what shall be done in cases of impasse, and what is negotiable. I favor a single agency, entirely new and different from those already in existence, which will function effectively in resolving the problems which are bound to arise under the new public employee bargaining statutes.

Finally, there must be state mediators, supported by sufficient budget, to make the legislation work. Michigan is an example of a state which has legislation providing for mediators in both the private and public sectors. The role of the mediator is that of coming in, going between the parties, and assisting them to re-evaluate the positions they have taken themselves. Dr. Nathan Finesinger resolved the Detroit newspaper dispute, which had been deadlocked for 150 days and which the state mediators could not resolve. It went on then for another 75 days before Dr. Finesinger could bring about a resolution. Perhaps the state mediators would have been able to resolve the impasse, but sometimes someone from outside can do what the state mediators cannot themselves do. So our law should provide for outside help if state mediators are unable to resolve an impasse. It takes time and money to develop our own state mediators and we are short on qualified persons in this area. There is a special need to identify those who have skills to act as mediators; perhaps some of you may be interested in functioning in this sector. The state must have a roster of mediators available for this purpose because this is clearly a responsibility of the state.

Timing is very important in mediation work. Skills in mediation are related to having an understanding of the community, its resources and its communication centers, so that the time you need to get the information across, you can also bring to bear public sentiment and also whatever political and economic pressures can also be brought to bear.

Conciliation is a first step in mediation; without attempting to encourage the parties to go one way or the other, you simply seek to bring the parties back together and to consider their own problems for themselves.

Fact finding. Fact finding is important to break an impasse where the parties are negotiating the terms of an agreement. It is only in its infancy in the public sector; there has been, for example, only one case so far in our state, that of Adams City School District. The case arose over an impasse on the salary schedule for the coming year. In May, a 3-man panel was formed to deal with the impasse. One man represented the board, another the teachers, and the third was chosen by these two. These are *ad hoc* committees or panels, and are very effective in resolving impasses. The Adams City agreement contained a clause on impasse (board of mediation; fact finding), but fact finding is more formal than mediation; you gather facts formally from the parties, and there are other well settled procedures in fact finding. Sometimes fact finders, after finding the facts, seek to bring the parties together and get the two parties to reassess their positions. This is logical when the facts are revealed and published, and so fact finders have also been looked upon as mediators in addition to fact finding.

Fact finding must proceed expeditiously, since there is usually a deadline to be met, and an impasse to be broken so that negotiations may proceed apace. In Adams City we met day and night for two weeks except for two days, including two Sundays and Memorial Day. This can amount to "crisis fact finding", but it must be done quickly, which is very difficult at times. It may mean being almost constantly in meetings. It means the parties must be dedicated, too, and objectivity is paramount in their deliberations. Also, the panel members must not stand pat on their party's position, since that can lead to a second impasse which would be unfortunate. I have no special ax to grind for 3-man panels, but they do bring to the problem a broader point of view, and although it is more costly, usually will be more effective than where one fact finder works alone.

Strike. The strike is not likely to be given public employees in this state for a long time, if ever. The strike in the public sector always creates great inconveniences, and many people criticize the strike. It should be recognized, however, that the strike as a concept is an integral part of collective bargaining in the private sector. When there is a strike it does not mean that collective bargaining is not taking place; it means that the parties have pushed the matter through to this, which usually is the most drastic stage of collective bargaining. It is a tactic, and it is a part of the bargaining process. It does not mean that bargaining has stopped. It simply means that both management and labor may have from the outset used tactics which were directed toward eventual strike. Management may have known from the beginning by bargaining on the subjects that it did that a strike was inevitable. Similarly, labor may have used tactics intended to result only in the strike. However, in the public sector we are not likely to have this strategy recognized as acceptable as it has been in the private sector. In the public sector, both parties may be expected to instead push the matter to fact finding or mediation as a means of settlement. The strategy will depend upon how the parties see the problem and how they feel they can best deal with it from their points of view.

Do teachers bargain with the idea of finally coming to fact finding as an eventuality? Perhaps this could happen and it would be a valid tactic to use. But sometimes a lack of sophistication may result in the need for fact finding. Fact finders must remember that they are charged with the responsibility of mediation between parties. Bringing the parties together may result in a better solution to the problem and will give both an opportunity to remind the panel if certain facts have been overlooked in the drawing up of the panel's recommendations.

Fact finders must not only get the facts, but they must also weigh the facts. Furthermore, fact finding is only advisory in nature; both sides may reject the fact finders' report, which puts the parties as they were before, in impasse. The implication is clear that the parties must bargain in good faith; they must not hold back the facts in any way; they must then try to come to some kind of agreement. The fact finding panel is and must always be neutral; even in their final mediation with the parties they must not reveal a partiality to either point of view. The recommendation must be fair to both parties; there must be a balance between the points of view. Both sides must be prepared to answer questions put to them by the panel, which means people must be developed to get the facts for teachers, who do not have the opportunity to garner the facts as administrators do.

Arbitration. An additional procedure is arbitration, generally spoken of as compulsory. In the federal service there is what is spoken of as advisory arbitration. This is an inconsistency in terms, since ordinarily arbitration is judicial in nature, which is to say that a judge doesn't come in and get the facts, and render an advisory opinion to the parties. He comes in, gets the facts, applies the law, renders a decision, hands down an award, or an order to the parties. There is nothing advisory about it, at least in the private sector, because the parties must live by the award. It is mandatory, and compulsory, not advisory in nature. This has worked very effectively in the private sector at the level of interpreting and applying existing contract principles. But in this country, we have not used to any extent arbitration to resolve impasses when the parties are attempting to arrive at new contract terms. Some countries have.

Compulsory arbitration really means the arbitrating of disputes over new contract terms. The award is binding on the parties. This is also called interest arbitration, which employs the use of third parties in getting the terms of that contract settled. I personally feel that the use of compulsory arbitration would be most unfortunate for public employees, because just as the strike is an integral part of the bargaining process, so could third party arbitration become an integral part of the bargaining process, that if the parties wanted to push it that far, you would be going repeatedly to the third party to resolve the terms of the agreement. I personally believe that the best approach is the use of voluntary arbitration in which the parties themselves have to arrive at these decisions. Compulsory arbitration may in fact make the determination of the terms of the contract a function of third parties which may not be constitutional. This, in effect, would change the whole complexion of the bargaining process. The stronger party would then tend to dominate the other party, and true democracy would not be possible.

Such a procedure would be worse than the strike.

Grievance (or rights) arbitration arises because of a dispute between the parties over a term of the agreement. It is most widely used in the private sector. It can also be used in the public sector. Third parties are also involved here as arbitrators to interpret the contract language. Many of the skills you normally associate with the judicial process come into play. How to get facts, test the facts, balance the facts, interpret the language, and render a decision are essential here.

THE ROLE AND OBJECTIVES OF THE AMERICAN FEDERATION OF TEACHERS

Herrick Roth, President
Colorado Labor Council, and Vice President,
American Federation of Teachers

Introduction

I appreciate this opportunity to meet with people who are concerned with these new horizons in relations between workers and employers. Teachers have a new role in the making of policy and this will of course change the role of administrators, also. I am to talk with you today on the role and objectives of the AFT. The first and principal objective, of course, is to establish for teachers in every major school district of the nation not only the right to bargain but also signed agreements with the management of those school districts, agreements that would really take the place of all other definitions of what the working relationships are between the teacher and the people who employ him. This was not even an objective of the AFT as recently as 1956, and only became a real objective in the last twelve months. The change has been brought about principally by written laws in some of the states, and the promise of such legislation in all the other states; it is inevitable that in the next decade there is going to be a common thread through all the fifty states which will define statutorily what this relationship shall be. There may even be a national law in this respect.

The AFT. Another objective is to define precisely what management rights are in school systems throughout the country. This is just as important in the educational picture as it is to define the teacher's role. Still another objective is to try to determine what kind of school district organization best befits the bargaining process. AFT believes that the process is here to stay, and we must learn to live with it to the best of our ability. Another objective is to state this insofar as is possible through federal law, because this is a national problem. We are a mobile population and there must be some kind of commonality from state to state to insure stability and predictability in the whole process. Finally, the AFT has as an objective to completely revise, re-construct, and re-structure the whole American educational system from top to bottom. This is a very difficult objective, but I can say that the leadership of the AFT is more involved in it, and is more aware of its importance, than any other single group in the United States, including the National Education Association, or any other group in the country. The Education Commission of the States has started on the problem but it will take a long time for all of us working together before it will be fully solved.

The locals. AFT like the NEA is a national organization. It has a little more, but not much more, of a coordinated centralized spirit in terms of national viewpoint. This is because our locals are chartered parts of the national body. When I pay my dues to my teaching organization, I do not pay my dues to a local, but to the American Federation of Teachers through the charter granted to the local, and that is all. As a result, our tendency is to try to define things nationally. But like all other organizations we have our problems in doing this. There are 61,000 locals in the AFL-CIO; another 9,000 local unions in the country outside the AFL-CIO. The largest single union in the country is the teachers' union in New York City. Albert Shanker, the president, confronts himself every day with probably more problems than any school administrator in any part of the Rocky Mountain West. City schools are facing militant, outspoken opposition in every direction and the local union and its president and constituency must deal with these problems in the best way that they can. Not all the 55,000 teachers in the local are liberal, united in one great cause, but are of various races, opinions, philosophies, and points of view as you would expect in such a diverse group of teachers. This offers a real problem in unification of all elements making up the union, and this is a difficult problem, to say the least. However, real progress is being made in even those states which do not have a state law requiring or permitting large city boards to enter into agreements with teachers.

State laws. There are five states which have laws which AFT favors; these are liberal, comprehensive type laws, reflecting the philosophy of collective bargaining in the private sector. An example is the one in Wisconsin, which besides being the oldest one, is perhaps the best. There has been less trouble in Wisconsin than in any other state, and this is because it covers all governmental employees including those who work for the state, it defines unfair labor practices, it sets up a separate board for dealing with the legislation, and it has other favorable features. There will be at the end of this year over 100,000 non-federal public employees under labor contract in the State of Wisconsin. That's the best one on the books, in my opinion. In New York, the law was too punitive and did not help in the drawing up of the New York City agreement with the UFT. Michigan law exempted all civil service employees of the state, which was a mistake. In Colorado, we will have to face up to the opposition of the state civil service organization to a comprehensive law. Other states will have similar problems. But AFT favors all states as having a comprehensive type of law which will allow the state to spend more for schools and it can only be done where all government employees bargain under a comprehensive law where their combined strength is felt as a unit.

Problems of race. Twenty years ago 3 per cent of our AFT delegates were black, still was 3 per cent six years ago. It was 11 per cent two years ago, but will this summer be 22 per cent of the delegates to our annual convention. The faculty of Detroit is 40 per cent black, and this is the trend in all the big cities where we are the sole bargaining agent for all the teachers in those cities. What should be the role of the union in the big cities? Our objective is that we should face up to the need to represent teachers in New York, Philadelphia, Detroit, Washington, Chicago, and Cleveland and to do this as a liberal, progressive force in the total functional area of society. We sponsored a Racism in Education conference over two years ago, and have held regional conferences on this subject also since that time. Nevertheless, there is a militant black element in the union which is causing some concern whether we can continue to be united on our objectives. The white group has 53 of the 100 votes in that convention. Mr. Shanker, in New York City, has unusual problems within his union to play a unifying role and it will continue to be a difficult role for some time to come. This is a far cry from the old association approach to social problems and is still indicative of the fact that the union is the only one which is trying to get at the source of these problems and deal in a realistic way with them. That is our approach, and we will stick by it since we think it's sound. The fear of the AFT did something to the NEA and they got scared. We are in a position to continue as the dominant teachers' organization at the moment, even though the NEA says it has 1,080,000 members. We haven't changed, the NEA has. And it has changed in the direction we were going all the time. We now have 260,000 teachers covered by union agreements embracing 130,000 people who pay us dues. Only in New York are we at 90 per cent of membership, so we are actually representing twice as many teachers as are paying dues in the big cities. We do not have the union shop anyplace.

Policy. Yet the union is getting blamed for strikes and other work stoppages because it is becoming too powerful. We need laws passed which will define what the bargaining posture shall be for teachers. In this respect, the AFT has problems which other unions do not have since they bargain in the private sector. In the public sector, we will have to agree on the process of defining what that bargaining process is, with whom do you bargain, and do you bargain after policy is set or do you bargain for policy? Mr. Shanker says you make policy proposals to the duly elected officials, but you don't bargain the policy. Then when the policy is made, you bargain for the techniques which will make the policy effective. The problem is that just as soon as you assume the role of the bargaining agent, and the teacher really stands up and says this is what I really need in my classroom, you have real problems which you never knew you had before. This is a different kind of situation than obtained before teachers became militant. Our objectives are very broad and in a state of flux, and our council meets now about every three weeks where it met once per quarter. We are in a situation in which we have to finance our own activities, the same as any taxpaying citizen. So financing is a real problem with unions as it is with any organization that wants to do something for its membership.

We chartered 17 AFT locals in Michigan this year so we could bargain in elections. We won where we didn't even have a union member, but we won the election by filing. We won these elections in districts where the teachers had become disenchanted with the NEA.

Merger. Will the leadership of the AFT consider a merger with the NEA? We are the only ones who are talking about it publicly. We did make overtures to the NEA, which had become concerned about AFT inroads in the big cities. I don't think we are going to get a reply until NEA awakens to its need to get with it and really represent teachers as they need to be represented. Some people think we didn't really want a reply but that isn't so. If you polled our executive council there are seven of us that do not want a reply, and there are ten of us that do want a reply.

What demands would we make? We don't know of course what these would be; it would depend upon what they brought to the table. I think we would insist that teachers stay in the labor movement; we don't want to have administrators in the same bargaining units; and we would insist on formalized types of laws governing all governmental employees including teachers in each and every state.

The AFT was organized in 1916. It wasn't until 1956 that we finally proclaimed that our principal priority in this union is to bargain with our employer. Unlike the NEA, we define the employer as management;

we don't want to bargain once the policy is set with those who have to administer it. You bargain with the ones who have to administer the policy from day to day, not with the policy makers. Sometimes both administrators and teachers get together and go to the policy makers and say we need thus and so, and some of our unions have done this. We are not against this type of procedure, in fact some of our unions use it all the time. The More Effective Schools in New York City came about in just this way. There are now 28 of these, and they are saying to the policy makers we want to work together as administrators and teachers to provide a better education for children.

THE DCTA AGREEMENT

Allerton Barnes, President,
Denver Classroom Teachers Association

Introduction

What's a good teacher-board contract? There's no such animal as a model contract but the one adopted by the Denver School Board has drawn considerable attention throughout the country. NEA has called it one of the finest, not because it is one of the few big city contracts the NEA has to brag about, but perhaps because it meets the needs of the teachers involved. Only three members of the DCTA voted against it, so it is popular at home, too. It's a comprehensive, or Level IV agreement, and one which is being widely emulated throughout the country.

The DCTA. In 1962, the NEA convention was held in Denver and for the first time this locality heard the term "professional negotiations". The year before, the AFT affiliate in New York had won the election to represent all the teachers there. So in 1962, the NEA was trying to correct the anachronisms with which we were living at that point. Our local association at that time was not very active; it had annual dues of four dollars, and the idea of addressing ourselves to the board of education had not then occurred to us. We hoped that someone would do something, but it never occurred to us to make it happen ourselves.

On returning from England, I got active in 1962 and have now gone through my fourth season of negotiations, and it is exciting to say the least. DCTA became strong in 1967 by calling a halt to negotiations and insisting that we wanted to begin with a grievance procedure. We were told that we did not represent all the teachers, and that we would begin where the board wanted to begin. So we insisted on an election, which we won, and which strengthened our position with the boards and put us in a better bargaining posture. We spent the seven weeks of the campaign seeking from teachers what they wanted in the agreement should we win, and this was one of the best things we did. We had now a blueprint for the future, and we did not rest on our record, but we were ready within a week or ten days after the election to present 106 proposals to the board of education. From Mid-April till the middle of September we met and bargaining went on until we had won a major proportion of the 106 proposals. During this time, there was a change of superintendents; both men were worthy adversaries. I stress this word because the word has real relevance to collective bargaining. This does not mean antagonism, however, where the parties bargain with a good attitude.

Attitude of negotiators. There are seven attitudional characteristics of successful negotiators:

1. Expect good faith, and be prepared to walk out if you are not getting it.

2. Show good faith. This is not a trick phrase; this phrase means everything. Show good faith and show it with an air of assurance. Don't be cocksure, but at least don't hang your head and look apologetic. Be positive and assured.

3. Be watchful and alert. This doesn't mean suspicious, but rather like those who buy safety belts for their cars, or insurance on their lives. Be awake, alert, in order to capitalize on any weaknesses which the adversary shows. But never try to crucify an adversary; always let him save face.

4. Be firm, but not too firm. Save the hard line for rare occasions. Don't dissipate effectiveness needlessly.

5. Maintain a sense of humor. Don't take yourselves too seriously. Things may be grim but they are hardly ever that grim. There have to be those moments when you can relax and are able to laugh at yourself.

6. Be yourself, *whatever* that means, for better or for worse, and if you aren't a good negotiator then give it up for someone who likes it and who can do it better.

Negotiations strategy. There must be a sense of oneness at the table. We use a five-member team, but the number can vary. We learned by experience that not all the members of the team are supposed to talk, that it is better to have a single spokesman and bring in other members of the team when special explanations or arguments are needed. Use some outside help, either from the CEA or the NEA, or some other interested group. A wider view is essential. Silent members of the team should send notes, or otherwise indicate that they have an idea, but they *should agree that one person* will do all the talking. You can caucus when you need to and you will get used to using variations on this theme. *Unity is important*; the group must *present a united front*.

Role of the principal. An NEA release *EDUCATION USA* (April 8, 1968) asserts that the principal should be an active participant in the negotiations process and still be his school's instructional leader. He can work with his staff on a "collegial" basis, but he should also have the right to negotiate his working conditions with the board of education. Actually, PN has broken down the hierarchical structure and put the principal on the side of the table with the board and superintendent.

There are two clearly-defined camps: the employer and the employee. How best can we structure the employee group for most effective operation? Where does the principal belong in the process? Time should provide us some answers on this very real problem. In Denver, the superintendent considers his principals as members of the management team.

Questions. Do you favor the agency shop? Yes, but not the union shop. Who determines what is and is not negotiable? We feel that everything is negotiable. This doesn't mean that we will want to bargain about everything, but we think it should not be limited. Nobody at the table should say that this or that is not (without debate) non-negotiable. The question is whether teachers can be said to have a legitimate interest in the item; if so, it is negotiable; if not, then they should not expect to negotiate that item. We are broadening the scope of negotiations and perhaps it will broaden even more than at present. Some of the items may be taken up at the Executive Council representing employees and employer, the Denver Board of Education. Sometimes these thing can be handled more effectively there. Also, some things can be handled quicker at the time they become a problem than to wait until contract time, which wastes time.

Should the principals have their own organization? There is perhaps a new breed of principal nowadays. The principal is really only the "principal teacher", but this role cannot be played by any one person any more. We have coordinators, curriculum workers, and others and the principal cannot claim to be expert in all areas. I believe that the department head, head teacher, or master teacher may in the future take over the responsibility and the quality of educational performance placed in the hands of the teaching profession itself.

What is the DCTA position on work stoppage? DCTA refused to agree to hand over its right to strike. So a resolution by the board says that the board refuses to recognize the right of the teachers to strike. But the DCTA is not a party to this resolution, and asserts this right if it comes to that stage.

What is the best makeup of the board's team? This varies. DPS uses a five member group: 1) a full-time Director of Employee Relations representative, a new position; 2) a high school principal; 3) a junior high school principal; 4) an elementary school principal; and 5) someone from the central administration building. Our bargaining period is between March and the end of May. We can then get our responses back from the membership before school is out. We have had as high as 94% approval of our platform by the membership on items arrived at in the process.

Our agreement is for two years. There is provision for a new election next spring if at least 30 per cent of the teachers sign petitions to that effect. If no election is held, we will continue to operate on the annual renewal clause until an election eventually is held.

There is nothing illegal in the way in which the board has entered into its agreement with the teachers, even in the absence of a statute governing this. We are the equal of the board at the table in the determination of how the decisions are to be made at the table. The law has nothing to say on how they have to make their decisions. We need a law which will make it mandatory for boards in Colorado to bargain with teachers. Now, in the absence of a law on the subject, where the board has voluntarily entered into an agreement allowing teachers to assist in decision-making, once they have entered into this kind of an agreement, it has all the binding effect of law on the subject, where the board has voluntarily entered into an agreement allowing teachers to assist in decision-making, once they have entered into this kind of an agreement, it has all the binding effect of law, so long as the board does not act outside its powers in other ways. But this is not true in all the other Colorado school district where boards will not voluntarily enter into this kind of an agreement.

TEACHER MILITANCY

Task Force Group A

Introduction

Teacher militancy, as it is known today, is the product of attitude on the part of teachers and teacher organizations and a more permissive attitude on the part of society in accepting change.

Inadequate salary levels and poor working conditions have always been prevalent in education, but the attitude of teachers has now changed. It has been only recently that teachers have been willing to take corrective action.

A greater awareness of individual civil rights, among other reasons, has been mentioned as a significant cause for this change in attitude. Teachers no longer hesitate to challenge, and even defy, the law if they believe such action is necessary to achieve their goals. There is no question that this change of attitude has been prompted by the success achieved, for the first time, through defiance of "unjust" laws or direct confrontation with superintendents and Boards of Education.

What is Teacher Militancy?

In trying to assess the underlying causes of teacher militancy, one must first deal with the sub-question of, "What is militancy as applied to teachers?" The term "militancy", when applied to teachers or other segments of this society, is very nebulous. In most instances, its use contributes to mis-communications and a lack of understanding which leads to an impasse in problem solving. Obviously, a militant may range from one who is intent upon complete destruction of any system to one who is aggressively active in promoting change within a system that is imperfect.

Although one must rely on very subjective analysis, it seems clear that teachers as a class must be placed toward the conservative end of a continuum that supports change within the system as compared to a complete overthrow of the public school system. This is not to say, however, that the more impatient see value in saving the present structure.

Teacher militancy, from a positive point of view, must be defined as active attempts by professional educators to assign a proper priority to the functions of public school education in meeting the demands of a Twentieth Century society.

Causes of Militancy

The causes of teacher militancy are most attributable to the collective awareness by teachers of the needs of this society, as reflected in its youth, knowing the basic responsibility that is theirs, in a period of change and yet being forced because of tradition, custom, or protocol to await board policy decisions and administrative leadership within a system that takes pride in reflecting society.

More specifically, the following can be considered as major causes for teacher militancy; all have played a significant part in stirring teachers to militant action.

1. Far too many teachers find themselves unable to successfully perform their teaching task. This is due to many reasons: shortage of supplies, outdated textbooks, inadequate school buildings, unruly

students, overloaded classrooms, many demands forced upon the teachers which are not related to teaching.

2. Teachers want to have a greater voice in educational affairs. School boards have been reluctant to involve teachers in policy making. Today's teachers are better educated than ever before. They are aware of needed change and are asking to help improve the educational system.

3. Teachers want to be recognized as professional people. They have better education and training. They are constantly told that the education of today's children is the most important responsibility for the future of our country, and even the very existence of our way of life depends upon educating the leaders of tomorrow. Yet, they are still underpaid in relation to other professions requiring similar educational training and experience.

4. The organized rivalry between the N.E.A. and AFT is one of the most inportant factors or causes of teacher unrest. Each organization has attempted to outdo the other in attaining teacher demands.

5. Because of urbanization, the decrease in the number of small school districts and a consequent increase in the size of the larger districts has resulted in further breakdown in the procedures for maintaining communication with teachers.

6. The make-up of the teacher corps has changed. This can be explained in part by the increasing numbers of men employed as teachers coupled with the continuing teacher shortage. Associated with this and probably more important is the fact that teachers have been alert to what is happening in fields other than education in the total area of negotiations. In some states, the right for teachers to negotiate has

come through legislation affecting other state or public employees.

Teachers are no longer reluctant to identify with other organized groups and have found their professional prestige does not suffer when they take a firm stand to secure needed changes.

Conclusion

Change of attitude among teachers in this generation has been influenced to the greatest extent by the process of urbanization. Political structure, economic theories, employment practices, religious dogma, communication policies, and educational concepts have all been devised in a nineteenth century rural setting or before. Today the majority of the citizens of this country live in an urban setting in which functional relationship, tolerance, flexibility, mobility, anonymity, and the rapid change of traditional mores and values are functions of life.

It is the role of educators to demythologize and replace worn-out cliches with rational analysis. To do this, they must have greater roles in the policy and administrative decisions influencing the role of the public school.

Postscript

The nature of social change is extremely complex. An attempt to examine the behavior of a segment of society, in this case the teachers, to determine cause for change in attitude is nearly impossible.

There are numerous articles which analyze the causes for teacher militancy. A few of these are listed below.

Why Teachers Are Militant New York State Ed. 54:23-9	E. D. Kountz March 1967
New Voice in Public Education Teachers College Record 68:13-20	A. Rosenthal October 1966
Another Look at Teacher Militancy Journal Secondary Education 42:77-81	L. McGinnes February 1967
Power of Unity and the Peril of Belligerency Michigan Ed. Journal 43:1	A. H. Rice May 1966
Fast Express Named Militance; unionization of college teachers No. Cent. Assoc. Quarterly 42:229-32	D. A. Erickson Winter 1968
What Makes Teachers Militant? Arizona Teacher 56:10-13	J. Cass & M. Birnbaum March 1968
Teachers Revolt in Michigan Phi Delta Kappan	D. Dashiell September 1968

Respectfully submitted,

Task Force Group A

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USE OF THE LABOR UNION FRAMEWORK IN PUBLIC EMPLOYMENT

Task Force Group B

Historical Background

The labor union movement in the United States had its roots in the early colonial era. As early as 1636 a group of Maine fishermen went on strike over the withholding of their wages. In 1741 Boston caulkers formed a type of combination when they agreed among themselves not to accept paper money or due bills from their employer. Twenty tailors walked off their jobs in 1768, and some New Jersey carpenters went on strike in 1774. Each of these incidents is an example of local dissatisfaction resulting in labor reaction.

Higher wages, shorter hours, and improved working conditions prompted the union movement's organizational beginning in 1794 with the establishment of the Society of Journeymen Cordwainers in Philadelphia. The 1800's ushered in business enterprise. Merchants forced to retain competitive prices, more often than not, hired "cheap" unskilled labor to keep wages low. Unions countered with collective bargaining, closed shops, and strikes.

As industry grew, the labor movement also flourished. Union movements soon became regional with the formation of the New England Association of Farmers, Mechanics and Other Workingmen in 1831. By 1873 there were 25 national associations. It should be noted that the growth of industry parallels the growth of organized labor on a national scale. Between 1840 and 1890, the number of employees in manufacturing establishments rose from 800,000 to 4,250,000.

Aided by the Adams Act of 1916 and the National Labor Relation Act of 1935, labor became more powerful than ever before in history. Unions had long been held under control by industry, government, and public opinion. The period of depression in the 1930's brought about a tremendous growth in the unions. This growth came not only in the form of increased membership, but also in the form of power. The Taft-Hartley Act of 1947 attempted the restoration of equality between management and labor by banning the closed shop, providing the right-to-work laws, requiring sixty days' notice for the termination of any agreement, and dealing with strikes in a national emergency through the Federal government.

The Public Sector

As the public sector has viewed the struggle of the private sector, it has seen the need of collective bargaining backed by the strike threat. Many in the public sector view their wage scale and the vastness of government with alarm. They see the private sector's example as their means for dealing with the government. Breaking all tradition and public opinion, public employees have increasingly been organizing and many have held strikes in recent years. Florida's statewide teacher strike shocked the nation, but it is predicted that there will be 250 strikes by teachers next year.

Complicating the adaptation of collective bargaining from the private sector have been the differences in workers' rights. From the time of the National Labor Relations Act in 1935, workers in the private sector have been secure in their rights. These rights have included the right to organize, the right of majority representation, the right to bargain collectively, the right to grievance procedures, the right of mediation, fact-finding and appeal, and the right to strike.

Similar rights have begun to be granted to workers in the public work sector. These rights of public workers have, in general, been of quite recent origin and less general in their application. The right of public workers to organize appears to be recognized in a majority of the states through either a statute or court decision. The right of majority representation is seldom the subject of state statutes, but it is gaining acceptance in practice. Federal workers were granted this right by Executive Order #10988 of 1962. The right of public employees to bargain collectively is guaranteed by law in about one-third of the states and by Executive Order for federal employees. The right to strike by public workers in the federal government is specifically prohibited by Title 5 of the U.S. Code. Fifteen states specifically prohibit strikes by public employees. The right to strike appears to be denied to public employees unless specifically authorized by statute. The right to grievance procedures is granted by statute in but a few states. Judicial decisions on this subject are mixed due to a coupling in many cases with the strike issue. The right to mediation, fact-finding, and appeal by public workers is the subject of legislation in 14 states. It appears that this cannot be forced upon public employers in the absence of legislation.

Although the discrepancy in worker rights between the public and private sectors is being reduced, the rights of workers in the public sector have been slower in coming, less general in their applicability, and infrequently guaranteed by statute.

Postulates of Collective Bargaining

The postulates of collective bargaining as practiced in the private sector should be adaptable to the public sector. These postulates have been determined to be:

Postulate I -- A genuine interdependence exists between the parties, and this interdependence is more than pecuniary. There is an ideological compatibility. Both parties are committed to the support of the bargaining system.

Postulate II -- The parties have diverse or conflicting interest. One should never expect complete labor-management cooperation.

Postulate III -- An employee group is not a monolithic organization. At least three groups in it may be recognized. These three would be the hierarchy or paid staff, the core group, and the rank and file. Each of these groups has separate needs. Management is also characterized by sub-groups, each of which has separate interests and needs.

Postulate IV -- The parties to collective bargaining are not completely informed of the precise nature of the position of the other. What may appear to be ritual is a necessary allowance of time to work out serious internal differences.

Postulate V -- Both parties work under restraints. Bylaws and policies offer internal restraints. Economic, social, and legal limits are external restraints.

Postulate VI -- It must be assumed that a balance of power exists. Any situation in which one party has power arbitrarily to impose its will on the other is not a situation in which bargaining can take place.

Some Differences

Several differences become apparent when an attempt is made to draw a parallel between collective bargaining in the public and private sectors.

The first and most obvious is that in the United States the right of public employees to strike has never been authorized legislatively. In many jurisdictions, including the Federal Government, the strike of public employees has been specifically declared to be illegal. The right of public employees to strike -- a legal weapon in the private sector -- does not as yet have wide public acceptance, besides being everywhere illegal.

A second difference is that in the private sector, company representatives are not under the constraint of securing specific approval of agreement terms from a higher authority. The company representative and the union official both have final authority in the matter. In the public sector, negotiations are between two political entities. Each party looks to a higher authority -- the people represented -- for a validation of its decisions. The public agency may have to secure legislative approval for terms to which it has agreed in collective bargaining, and the negotiations for the employees may be subject to somewhat similar action. By and large, control of public employment lies with legislative bodies.

Another difficulty in drawing a parallel is predicated upon the belief that there is a clear difference in product output and productivity between education and industry. In business and industry, these can be calculated in rather precise terms so that labor can bargain for its share. Productivity in education is less precise and difficult to define in terms that make it possible to allocate credit for its attainment to any specific part of the educational process. Therefore it is much different to negotiate for a larger share in education than it is in business based on product output.

Another difference is that business and industry are organized as private profit-making enterprises. They are able to bargain with labor organizations knowing that if they have to raise prices or increase their output to grant wage increases, they are able to do so. This is not the case in education. Since it is a public, rather than a private enterprise, the school system gets its support from taxes. A board of education operates within definite constraints in its power to grant higher salaries or other benefits which have price tags.

These have been some of the main difficulties being experienced in the public sector as it becomes more actively involved in the process of collective bargaining.

State civil service (merit system) employees, especially in the field of education, have enjoyed a set frame work of operation somewhat unique in nature. Having security of a kind, these employees may be slow in demanding collective bargaining privileges. When and if a state law is passed regarding the right of public sector employees to be allowed collective bargaining privileges, the civil service employees will also benefit from this law. It is felt that militancy of these employees is somewhat"nil" because their employer, the state, has already set up their rights and privileges in such a way that they are working under a merit system that offers them a great deal of security with a spelled-out type of advancement program.

Rivalry

In the public sector dealing with education, two rival groups are competing for the right to represent the teacher. In many ways the desires of the union and the NEA are very similar. Certainly changing conditions and pressure put upon the NEA by the rival group have forced the NEA to change some of its old concepts and methods and take a more active stand. While there is disagreement on tactics, there is agreement that something must be done.

The union feels that teachers have the right to strike and is opposed to both anti-strike laws and the use of injunctions in teacher-board disputes. In this matter the NEA takes a more "professional" approach and believes that sanctions have proved to be more effective.

There is serious disagreement on the matter of representation. The union feels that it should never lose sight of the fact that it is the teacher whom they represent and serve. The NEA believes in the unit definition -- all persons, except the superintendent, holding professional certificates or permits issued by the state agency should be members of the unit.

The NEA supports legislation defining the negotiation relationship on a state by state basis while the union favors a national code for teacher negotiations.

Both groups want to be treated as responsible professionals. They would place no limit on the scope of negotiations. Any aspect of the program which influences the quality of the program should be in the bargaining process.

Both groups favor the principle of exclusive recognition of a single bargaining agent. Unions favor recognition of the organization which achieves the majority of those voting in a secret ballot election. They are opposed to recognition on the basis of membership lists.

Both groups favor improved and more effective grievance procedures, with outside arbitration as the final step.

Unions favor development of a code of unfair labor practices and definition of what constitutes good faith negotiations.

Language of Labor

It seems quite clear that some of the language of labor unions can be applicable to negotiations between governmental employees and government. Sometimes, however, it seems feasible to change the wording to give this group more of a feeling of professionalism and less of a feeling of labor and unions.

For instances, we see no problem in saying that both groups have the "right to organize", or have "exclusive representation", or strive for "fringe benefits", or have the governmental group aceept a "package plan", or use a "labor relations consultant".

We can see some governmental employees wince a bit when the word "strike" is used; however, we can avoid this term by substituting a word such as"sanctions". A "dues checkoff" might better be called "membership fees". We think it becomes quite obvious that some of the terms or language of labor can be used as is, some can be changed or modified to fit the type of governmental group that is involved in the negotiations, and some of the language would probably never be used by this type of employee as it is currently used in the field of labor.

Conclusion

In conclusion, it might well be said that the labor union (private sector) framework with thirty years' advanced technology in collective bargaining may well be used as a possible guideline for the public sector employees in the setting up of their collective negotiation privileges.

Respectfully submitted,

Task Force Group B

Harry E. Ewing, Chairman
John P. Radloff, Vice-Chairman
Robert C. Proctor, Recorder
Gene Albo
Orville C. Chandler
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THE AFT-NEA RIVALRY

Task Force Group C

I. Primary question: Shall teachers speak with a unified voice?

Task Force Consensus: Yes, because collectively they are more powerful.

Leiberman indicates that power is not usually given to a group. "It is taken by it. More precisely, the public does not actively give power to a group; rather, it acquiesces to a taking of power by the group."

"If we look at individuals and groups who have achieved positions of power, we find that their acquisition of power was the result of an active drive to get it."[1]

II. How did the rivalry between the AFT and NEA develop?

The AFT and NEA rivalry developed mainly because of the lack of effort of the NEA to represent teachers' interests in areas related to economic justice in salaries. NEA was traditionally interested in promoting the professionalism of the professional image of the teacher. When teacher attitudes began to change they were caught unprepared. Rivalry has developed in a fight to keep the union from organizing all teachers including the NEA membership.

III. What basic differences of philosophy separate the AFT and the NEA?

Wildman and Perry point out that the significant difference between the organizations is on the question of whether administrators should be included in or excluded from the local teacher negotiating unit.[2]

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[1] Myron Lieberman, "Power and Policy in Education", Readings on Collective Negotiations in Public Education, ed., Stanley M. Elam, et al., (Chicago: Rand McNally & Company, 1967), 45.

The AFT is quite clear on this issue preferring to exclude administrative personnel from classroom teacher organizations and bargaining units. It bases its position on the conflict-of-interest model of supervisor-cupervised relationship. The administrators who carry out board policies are also empowered to dispense rewards and sanctions. The conflict-of-interest then lies in this power over rewards and the status differences it implies.

The NEA's position is based upon professionalism; that is, the public service or identity-of-interest model. The common goal of a better education for all children forms a common interest and would override any differences between teachers and administrators.

The single issue of apparently greatest significance as between the NEA and AFT at present is the question of the affiliation of teachers with organized labor. The NEA's position is that teachers as a group should not be identified with any particular segment of American society or the social or political program thereof.[3]

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[2] Wesley A. Wildman and Charles R. Perry, "Group Conflict and School Organization", _Readings on Collective Negotiations in Public Education_, ed. Stanley M. Elam _et. al_. (Chicago: Rand McNalley & Co., 1967), 417-418.

[3] _Collective Negotiations and Educational Administration_, ed. Roy B. Allen (University of Arkansas) and John Schmid (Colorado State College), 58.

IV. Are these differences irreconcilable?

Opinion is divided here. Opinion polls conducted in fifty states among 16,000 school administrators with a 45 per cent response showed these opinions:

1. Do you think such a merger could take place?

   9% in the next two years, 44% in the next five years, and 47% never.

2. Would you support such a merger?

   16% Yes, and 84% No.

3. One AFT merger condition is that NEA agree to affiliate formally with organized labor. (On several occasions the AFT has proposed a merger with NEA). Do you think NEA should agree to this condition?

   6% Yes, and 94% No.

4. Apart from the affiliation with organized labor, do you think there now are other important distinctions between NEA and AFT?

   62% Yes, and 38% No. This poll came from a report in *Nation's Schools*, June 1968.

V. What is the current strength of the AFT and the NEA?

The AFT has approximately 140,000 members.

The NEA has approximately 1,081,000 members.

VI. In general, in which parts of the nation is each making its biggest gains?

The AFT's 140,000 membership is concentrated in the largest metropolitan areas of the north and east.

The NEA draws its members from practically every school district, but its strength is in the smaller population centers (Western), and in rural areas.

VII. To what extent has the rivalry between AFT and NEA caused unrest and militancy among teachers?

Two recent books, *Professional Negotiation in Public Education* by T. M. Stinnett, Jack H. Kleinmann and Martha L. Ware and *Collective Negotiation for Teachers: An Approach to School Administration* by Myron Lieberman and Michael Moskow explore this question. They and NEA spokesmen note the 1961 AFT victory in New York City as the major spur to heightened organizational competition over the right to represent urban teachers before their school boards. Both mention as relevant the decline in blue collar employment and the increased recognition of the rights of public employees exemplified by President Kennedy's Executive order #10988 in 1962.

The authors of these books believe that historians may find more promising the offhand comments on contemporary victories in the civil rights movement and on the deterioration of slum schools in large cities, for these factors have made once docile urban teachers much more militant. The Task Force feels that unrest and militancy among teachers brought about and fed the rivalry between the AFT and the NEA.

VIII. What is the current labor union membership among all governmental workers?

There are approximately 1,500,000 workers in the current labor union membership among *all* governmental employees and membership in unions among governmental workers is growing at the rate of 1,000 new members *every working day*!

IX. *In what part of the country is unionism among governmental employees most commonly found*?

Unionism among governmental employees is concentrated mostly in industrialized areas in large cities.

X. *Should the AFT and the NEA*, *as has been suggested*, *merge or form an alliance*?

The Task Force believes they should not. Competition keeps the NEA on its collective toes. Besides, AFL-CIO would demand teacher affiliation with the union and the Task Force feels that teachers would not find this condition acceptable to their self image as professionals. The unions' prime beneficiary is the member. The NEA would have as its prime benefactor the client, namely the children. Also in the union many benefits go to the union. The tendency of the NEA to strike has stolen some of the thunder of the union; thus, the union has lost some of its appeal to teachers as a reason to merge.[4]

XI. *What changes in position have taken place in the AFT and the NEA since 1960?*

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[4] Educators Negotiating Service, April 1, 1968.

The NEA has started to shift toward certain philosophies held by AFT, and AFT is shifting some of their tactics in line with NEA philosophies.

In 1964 in Utah, the NEA authorized sanctions backed up by work stoppage or "sick call" days.

The general trend is to approve these work stoppages. The AFT has become more sophisticated in its approach to the white collar worker. The union wants and needs the teachers to increase membership strength and economic power.

XII. Why do labor unions feel that they must organize white collar workers?

The white collar workers are the last large group left in America to organize, outside of computers and robots. Today white collar workers outnumber blue collar workers.

Respectfully submitted,

Task Force Group B

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USE OF STRIKE AND OTHER STOPPAGES AMONG TEACHERS

Task Force Group D

Teacher strikes in the United States date back to 1880, as shown by the following table:

TABLE I

NUMBER OF SCHOOL TEACHER STRIKES BY YEARS, UNITED STATES

Year	Number of Strikes By Teachers
1880 - 1940	20
1941 - 1944	17
1945 - 1952	73
1953 - 1962	20
1963 - 1965	16
1966	33
1967	75
1968 (est.)	100+

Various Sources: Bureau of Labor Statistics; NEA; Other Sources.

Deplorable school conditions, low salaries, and public indifference during and following World War II resulted in 5,000 teachers going on strike in 12 states during the school year, 1946-47. One strike occurred in Buffalo, New York, involving 2,400 teachers. "The threat of a teachers' strike in Buffalo in 1948 triggered the passage of the Condon-Wadlin Act by the New York Legislature."[1] This act prohibited strikes by public employees in New York State. Despite this, teachers struck in New York City in 1960 and 1962 with the support of the AFT.

In March, 1963, Utah teachers voted to withhold services until the state legislature provided adequate funds to improve the total school program of the state. The NEA invoked sanctions against the entire state. During the battle, a two-day "recess" was called by the teachers.

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[1] T. M. Stinnett, Turmoil in Teaching, (New York: The Macmillan Co., 1968), p. 106.

The most recent teacher strike of significance occurred in Florida in 1968. Thirty thousand Florida teachers walked out on February 19, 1968, turning in their resignations. They won a 71% increase in the state's minimum foundation program for schools. The Florida Education Association called its members back on March 11. However, some school boards refused to honor a no-reprisal agreement and would not re-hire some teachers and administrators.[2]

Historically, groups of public employees have come to the city council or board of education and have politely made their requests with little discussion and no debate and departed. The decision was unilateral on the part of the public employer.[3] Nevertheless, there have been cases of work stoppages--especially on the municipal level--by public employees. The primary causes of such stoppages were low wages and poor working conditions.

The threat or possibility of work stoppage by public employees, coupled with the realization that public employees have the same rights as private employees, have brought about legislation and other considerations. In all cases, the strike is still prohibited.

There are many reasons given why public employees should be forbidden use of the strike. These reasons can be summarized under three main headings: 1. Strikes by public employees are against the public interest. 2. Strikes by public employees violate the authority and sovereignty of the government. 3. Strikes by public employees endanger public health and safety.[4] As a result of these beliefs, nearly half of the states have laws prohibiting strikes by government employees, and in all of the others the mood is clearly against them.[5]

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[2] NEA, NEA Reporter, Vol. 7, No. 4, April 19, 1968.

[3] Stanley M. Elam, Myron Leiberman, and Michael H. Moskow, Readings on Collective Negotiations in Public Education, (Chicago: Rand McNally & Company, 1966), pp. 298-299.

The rationale supporting each of the above three points is often less than convincing. On the first point, we find contradictions about what is in the public interest. Teachers may say it is in the public interest to strike for higher salaries because it will improve instruction by encouraging better qualified persons to enter and remain in the teaching profession. The board may say it is in the public interest to keep salaries down because increased taxes will harm the economy of the community.

The question of violating the sovereignty of the government is also inconclusive because in this country the people are the government.[6] Most strikers would emphasize that they are not striking against government--only against intolerable conditions of employment.[7]

The third point, that strikes should not be allowed by public employees because they may endanger public health and safety, is conceded to be the most valid of all. Most writers and educators would agree that firemen, policemen, and soldiers should not be allowed to strike, but what about city-park gardeners, clerical workers, and other public workers whose jobs are not directly connected with health and safety? Furthermore, public health nurses, transportation workers, and teachers are in areas of work where direct relationship to immediate health and safety is difficult to prove.

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[4] Myron Lieberman and Michael H. Moskow, Collective Negotiations for Teachers, (Chicago: Rand McNally & Company, 1966), pp. 298-299.

[5] Time Essay, March 1, 1968, pp. 34-35.

[6] Stanley M. Elam, Myron Lieberman, and Michael H. Moskow, Readings on Collective Negotiations in Public Education, (Chicago: Rand McNally & Company, 1967), p. 8.

[7] Myron Lieberman and Michael H. Moskow, Collective Negotiations for Teachers, (Chicago: Rand McNally & Company, 1966), p. 300.

Our citizens have a built-in bias against strikes by public employees because they have been imbued with this idea through many generations. This public resistance to strikes appears to be dwindling, however. Though no judicial decision authorizing public employees the right to strike has been made, some judges and barristers alike have indicated in recent years that provision for bargaining and limited strikes in unessential occupations may be justified.[8] "It is no answer to outlaw the strike by legislation, because it is unworkable, and mostly futile. If conditions become unbearable, public employees will quit en masse, call it strike or otherwise."[9]

Various techniques have been tried, some stimulated by the community through legislation; others developed by the parties themselves. A dozen states now have enacted legislation which authorizes organization and recognition of teacher groups, establishes procedures for determining the majority representatives, permits arbitration of questions of contract interpretation, and encourages the parties to engage in collective negotiations. Minnesota, Connecticut, Rhode Island, Washington, Oregon, and California have enacted separate laws for teachers, but in several other states teachers are covered by the same law as other public employees. By establishing procedures for recognizing the teachers' choice of organization, such legislation eliminates a source of conflict between teachers' groups and boards of education. Such new legislation generally has provisions to stimulate collective negotiations in the hope that by engaging in such discussions (sometimes with the aid of mediators and/or factfinders) the parties will achieve agreement without resort to the strike. Such negotiations, however, have not always brought about peaceful settlements--even with procedures for resolving disputes over new agreement terms.

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[8] T. M. Stinnett, Jack Kleinman, and Martha Ware, Professional Negotiations in public Education, (New York: The MacMillan Company, 1966), p. 32.

[9] "Teachers' Strikes, A New Militancy," Notre Dame Lawyer, Vol. 43, No. 3, February, 1968, p. 367.

The New York City strike by the United Federation of Teachers in September and several in Michigan by the AFT and the NEA at the same time (both states have legislative machinery for resolving contract impasses) prove that the mere passage of legislation is not enough to assure permanent peace in relations between boards of education and teachers' organizations.

Government employees have gained leverage in New Hampshire, Michigan, Alaska, Massachusetts, and Wisconsin through legislation which gives public employees the right to organize and bargain collectively--negotiation, recognition, mediation with full collective bargaining, voluntary or binding arbitration, fact finding, appeal procedures, advisory and compulsory recommendations, conciliation, and injunction.[10] On the other hand, Virginia, Alabama, Georgia, and North Carolina prohibit employees from joining labor organizations.[11]

The prohibition of strikes will not survive in the American climate if its maintenance depends primarily on the severity of the penalties for violation. Proponents of this fact point to the New York Condon-Wadlin Act and a law[12] passed in 1955--a carry over from the Taft-Hartley Act of 1947--as notable failures.

The Condon-Wadlin Act (required the dismissal of all civil service strikers and barred them from pay increases for three years if they were later reinstated) did not prevent the New York City transit strike in 1966. That failure led to the passage of the 1967 Taylor Act which continues to outlaw strikes but directs its punishment against the union (fines up to $10,000 per day and withholding of rights to the automatic check-off of union dues) instead of the individual.

Shortly after the passage of the Taylor Act, the New York City Schools were hit by a strike called by the UFT Local 2 of the AFT. The Act withstood the test by the union and imposed penalties on the UFT Local 2. However, the point is this Act did not prevent a strike.

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[10] T. M. Stinnett, Jack Kleinman, and Martha Ware, Professional Negotiations in Public Education, (New York: The Macmillan Company, 1966), p. 182.

[11] John R. Vandewater, Union Management Relations in Public & Private Education, Reprint No. 77, 1965, p. 7.

[12] Sect. 690 of the amended Labor Management Relations Act (Taft-Hartley Act) - this repealed Sect. 305 of LMR Act.

The law[13] passed in 1955 makes it a felony to strike against the government. The same law makes mandatory the removal from the payroll any worker who asserts the right to strike or belongs to an organization which asserts this right. No person has ever been brought to trial in the twelve years that it has been on the books. Is it an effective law?

Similar penalties have proved non-deterrent to municipal strikes. New York State discovered that overly rigid law (Condon-Wadlin Act) could prove unenforceable, partly because local politicians were too fearful of union reprisals at the polls. Also, imposing such punishment would cripple government processes as drastically as would the strike itself.

Most state anti-strike laws contain no criminal penalties. Yet, even where the threat of jail exists, it has not always deterred those who want to strike. Mike Quill and his associates went to jail in 1966, as did some teachers in the New York teachers' strike in 1967. In February, 1967, the Sacramento County, California social workers were hauled off to jail for hit-run picketing in defiance of a court's no picketing order.

Other anti-strike laws in such states as Michigan, Florida, New Jersey, and Ohio have all been tested by striking public employees. The law itself is no guarantee that it will be obeyed.

We, as a group, believe that collective bargaining can work successfully among public employees when the process of collective bargaining is understood and is conducted in good faith by both parties.

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[13] Ibid.

We further believe that the strike by public employees is justified when communications in the collective bargaining process have broken down. We cite the School District of Holland, Michigan vs. Holland Education Association, September, 1967, in which the Michigan Supreme Court ruled that courts could not issue injunctions to prevent teacher walkouts until the school board had exhausted all avenues of good-faith negotiations.

This group would favor legislation requiring organizational penalties when it could be proved that bargaining procedures were not followed in good faith to their conclusion.

Respectfully submitted,

Task Force Group D

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Gale Johnson, Vice Chairman
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THE PROBLEM OF COVERAGE

Task Force Group E

State legislative committees are now faced with the task of drafting state statutes which provide public employees with the right to organize for the purpose of bargaining collectively with their employeers -- municipal, county, or state governments.

Many questions immediately arise: Should separate laws be passed for each type of public employee? Should the right to bargain collectively be made permissive only and thus fail to guarantee that negotiations might take place? Would an agency or union shop be required? These and many other questions are being studied in legislative committees throughout the country today.

Legislators must decide whether there should be single laws for teachers and other certificated personnel or one law covering all public employees.

Arguments for a separate law for teachers are:

1. The employee relationship in public education is sufficiently different from that of other types of public employment to warrant separate treatment in the law.

2. Teachers have a unique function in our society and a unique employment arrangement.

3. They are, or aspire to be, professionals with entry requirements based on a long period of preparation and state licensing procedures.

4. The role of the teacher at the work place should be autonomous and in line with his professional competency.

5. The influence that the teacher has or hopes to have in setting broad policy objectives is vastly different from that played by most other public employees.

6. There is fear that legislation establishing bargaining in public employment cannot help but reflect the interest of the largest classification of covered employees. A law which suits the purpose of this labor oriented group is not necessarily one that can conform to the rather unique arrangements characteristic of public school teaching.

7. If the gains which the teaching profession has built up over the years are to be preserved, the uniqueness of the educational enterprise must be realized.

8. School boards have unique powers; most of them have separate budget and taxing powers.

9. The relationship between teachers and administrators is unique and requires that supervisors and middle management not be excluded from teacher bargaining units, as would be expected under labor relations statutes.

10. There is a community of interest between salary schedules of teachers and those of supervisory personnel.

11. If teaching is to improve, and teachers improve themselves, there must be freedom to experiment, innovate, and autonomously and freely grow and be refreshed professionally. This requires some control over the management of the schools.

12. The American public has far better teachers than it deserves. Should teachers wait until the public is ready for change or should the profession seek change in an active manner through state statutory

authority, not waiting for other governmental employees to join them?[1]

Arguments for one law covering all public employees are:

1. Teachers are not actually paid as "professionals", hence should not seek separate legislation on this basis.[2] (In a typical state, teachers' salaries just about equal the annual earnings for industrial workers.)

2. Collective bargaining and professional negotiations are just different terms for the same thing. The differences are in semantics, tactics, and methods.

3. The NEA and AFT both wish to negotiate matters not within the traditional scope of collective bargaining. They wish to negotiate items which affect the quality of the educational program as well as anything which affects the working life of the teacher.

4. The threat of strikes is not unique to teachers and is hardly justification for special procedures.

5. A strike by teachers hardly poses any greater threat to public health or safety than a strike by policemen, firemen, nurses, hospital attendants, or public utility employees.[3]

6. The conflict of interest bugaboo--when supervisors are included in teacher bargaining units--has not yet occurred in states where this unified idea is in force.

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[1] M. Chester Nolte and John Phillip Linn, Background Materials on Collective Bargaining for Teachers, (Denver: Education Commission of the States, 1968), pp. 33-34.

[2] Ibid., p. 34.

[3] Ibid.

7. The problem of supervisory personnel membership is not unique to teaching alone.

8. The fear of a state labor relations agency handling teacher labor relations has not continued in states where it has occurred. The executive secretary of the Wisconsin Education Association, for example, opposes assigning these responsibilities to an education agency.

9. Qualifications of the personnel administering the statute were far more important than the administrative machinery established to carry out the objectives of the statute.[4]

10. Single-industry agencies created to assist employers and employees in solving their problems can easily be assimilated into the industry or dominated by it and lose their objectivity, as witness the Railway Labor Board as established by the Railway Labor Act.

11. There is greater economy in the administration of a single act; uniformity of policy is desirable; consistency in interpretation is assured.[5]

The proposal of a single law for all public employees raises the question of a possible conflict between such a law and established municipal, county, and state civil service systems. Michigan avoided such conflict by exempting all state civil service employees from the law.

The right of public employees to bargain collectively should be mandatory; otherwise, the statute would be completely ineffective.

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[4] Ibid., p. 35.

[5] Ibid.

Progressive public agencies have or are now entering into negotiation agreements with their employees. The purpose of passing legislation making mandatory the right to bargain collectively is to provide public employees who have been unable to negotiate the right to negotiate.

The state statute should allow flexibility in the choice of a bargaining agent by public employees. For example, school employees should be given the choice of bargaining with the board of education through separate bargaining units representing teachers, administrators, clerks and secretaries, lunchroom workers, custodian and plant service workers, specialized services (social workers, psychologists, medical personnel), etc. In the case of teachers, an election conducted by an outside agency (authorized by the labor relations agency named in the statute to administer the law) would determine which teacher organization would be named as the exclusive bargaining agent for all teachers. Such an exclusive bargaining agent, authorized by secret ballot by the group it represents, can present a united front in pressing its demands. The right to exclusive representation would extend for two years. An election should then be held to determine the bargaining agent for the next two-year period. It would appear that boards of education would oppose exclusive representation. In actual practice, administrators and boards lean toward exclusive representation because once decisions are reached at the negotiation table, there is wider acceptance of such agreements by teachers. The representative organization (elected bargaining agent) can also be held responsible for handling any subsequent teacher unrest because the decisions were agreed upon by the negotiating group which represented all teachers.

Exclusive representation may also be determined by appointment or designation by the board of that teacher organization which claims and can certify the largest membership of teachers. However, it appears that the election of an exclusive representative is preferred. It has been expressed by some teachers that, although they held membership in one teacher organization, they believed that another organization would do a better job at the negotiating table.

The Connecticut statute merits special consideration. The product of lobbying compromise between the NEA and AFT, it possesses a unique flexibility. Three varieties of bargaining units are provided for, the variety or varieties to be utilized in a particular school district to be determined by a vote of the personnel involved: (1) a comprehensive unit, including all certificated personnel below the rank of superintendent; (2) a unit excluding supervisory and administrative personnel; (3) a unit restricted to supervisory and administrative personnel. Pursuant to the statutory authorization, all three types of units have been created in the local school districts of Connecticut....In the judgment of the authors,[6] it is the kind of experimentation which is very much in order at this early stage of teacher bargaining.

The rights of public employees include the right of the employee not to join an organization. This right should be protected by state statute. The union or agency shop should be prohibited. Provision for dues check-off could be included at the expense of the representative organization and not the taxpayer.

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[6] Robert E. Doherty and Walter E. Oberer, Teachers, School Boards, and Collective Bargaining: A Changing of the Guard. (Ithaca: ILR Paperback No. 2, 1967), p. 64.

Conclusions

In conclusion, the members of Task Force E believe that a single, comprehensive law coverning all public employees and administered by a newly created state agency is preferable to a single law coverning only teachers. The passing of a single law for teachers would launch an exhaustive campaign by all other occupational groups in the public sector to obtain similar statutory coverage. Such redundancy in legislation and the ensuing administrative entanglements are needless and costly. This single, comprehensive law for all public employees should insure mandatory negotiation between employer and employee. Public sector employees believe that they deserve to be allowed to bargain collectively with employers.

Legislation can establish a broad framework for the procedure of give-and-take negotiations to operate which will apply in all school systems in the state. Legislation will stimulate the refinement of the negotiating process by permitting a sharing of experiences among the different school systems in the state.

Respectfully submitted,

Task Force Group E

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THE PROBLEM OF NEGOTIABILITY

Task Force Group F

What is negotiable has always been an important question first in the private sector and at present in the public sector. In order to arrive at possible answers to this question, it is imperative that several areas be inspected.

Labor Unions and the Private Sector

For the most part unions' voice in policy, which heretofore has been management prerogatives, has been limited to wages to be paid, hours of work, and conditions of employment.

To be of service to its members, the union must secure some voice in the policies of management; to strengthen its position the union must secure a voice in either the hiring or layoff policies of the company.

The functions of hiring, promotion, discipline, layoff and discharge, along with wages and hours become subject to a variety of rules when employees are represented by the union. Some rules are written into the agreement, others are accepted by both parties without being written, and still others are imposed by federal state and/or municipal laws.

How great a voice a union desires to exercise in policy making or in which policies it may wish to have a voice cannot be generalized. Unions are a function of their environment and therefore we find a wide variety of policies pursued by various unions.

The NEA Position

The position taken by the NEA is regard to the extent and scope of bargaining is that it wants a method whereby teachers, through their professional associations, can "participate" with boards of education in determining policies of common concern, and all matters which affect the quality of the educational program, including salaries and other conditions of professional service.

The AFT Position

The AFT asserts a right to negotiate on "anything that affects the working life of the teacher." This is certainly more than salaries, hours, and terms of employment. The Union favors collective bargaining as practiced by industry because it is essentially a power relationship and a process of power accommodation. The avowed purpose and practical effect of collective bargaining is to grant to employee organizations an increasing measure of control over the decision-making processes of management. They are in full support of the type of legislation which makes available to teachers most of the key elements of bargaining as practiced in industry.

Condition of Employment and Working Conditions

Conditions of employment and working conditions are interchangeable terms. There is difficulty in defining working conditions, but the term normally would include accident benefits, additional facilities, cafeteria duty, cumulative absences, damage to teachers' property, duty free lunch period, hospitalization insurance, in-service courses, jury duty, leave without pay, medical examinations, military leave, paid absences for negotiations, pensions, personal leave, preparation periods, professional meetings, promotions, relief from non-teaching duties, sabbatical leave, salary schedules, seniority, sick pay, summer school assignments, teacher aides, teaching assignments, teaching hours, transfers, and faculty washroom facilities. All of the above items and many others have been included in one or more collective agreements in education. The list is not exhaustive and does not include recognition, definition of terms, legislation limiting the agreement and other items frequently included although they are technically not conditions of employment.[1]

Management Security

State statutes regulating collective negotiations with teachers should include "management security" clauses to protect the public's right to have a voice in the operation of its schools. This right would be lost if tenure teachers (who are virtually immune to dismissal) ever controlled administrative matters in a school system.

The publicly elected board of education must retain the power to decide educational policy under the guidance of the chief school officer of the district who can also be replaced. Policy making responsibility should not be permitted to be transferred to the teachers' association.

Lieberman and Moskow point out the dangers involved when tenure teachers determine educational policy when they say:

> It appears that some advocates of the "everything is negotiable" philosophy have not thought through the full implications of this position. School boards do not have tenure and neither do top-level school administrators in most states. One reason is that these are policy-making positions, and the public has a right to change its policy-makers. If the teachers want to make broad educational policy for a school district, should they not be willing to give up tenure? If the public does not like the policies of school

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[1] Lieberman, Myron and Michael Moskow, Collective Negotiations for Teachers, (Chicago: Rand McNally & Co. 1966), p. 226-227.

> boards or superintendents, it can change the persons who fill these positions. It would appear that if teachers want policy-making functions equal to those of the school administration, the teachers should logically give up their claim to tenure. Otherwise, the public would be stuck with a broad educational policy-making agency which it could not change or abolish.[2]

Sovereignty

It would appear, at least historically in this country, that any cause that generates a significant amount of power can run its course with few, if any, constraints of law. This perhaps can be explained by a collective guilt that society assumes if the cause is worthy of substantial support.

The so-called sovereignty of a board would therefore seem to be contingent upon the degree of power that teachers, with their cause, are able to demonstrate. In the past, the doctrine of illegal delegation of authority has been extremely potent in forestalling collective bargaining. Today, however, this doctrine is under severe attack both in theory and practice and an apparent direct ratio of increased teacher power - reduced board sovereignty established.

A statute identifying precisely the items that are negotiable will protect the sovereignty of the board only as long as those items reflect the desires of the power group. Ultimately, a strike will disclose where the balance of power exists and board sovereignty will be increased directly proportionately to this balance.

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[2] _Ibid_., p. 245.

Teacher Right to Participate in Negotiation

The argument in favor of teachers having the right to participate in educational decision making along with the board of education and administrators has come about by the board giving the teacher's association this right at the teachers' request.

This process in sharing the decision making by the teacher association is emphasizing the democratic process. It has brought about changes which have increased the quality of education in the schools. The teacher is close to the heart of his profession which is the instruction that takes place in the class room. Unlike labor the teachers would like to think that with their training that they are professionals and should not be compared to labor in the private sector. This is why teachers qualify themselves to be experts on what is good for education in matters on curriculum, design of school buildings, class load, suggestions on who to hire, etc.

The teacher who takes the view of the union is usually so dissatisfied by administration and board treatment that the teacher is the same as a worker in an industrial plant. He was hired to teach,not to participate in policy making. If teachers are considered professional then they should share with the board in the joint decision of policy making.

The argument against teacher participation in the decision process is that the balance may go too far and that the board will lose its sovereignty. As long as the board has the final word, the teachers and their associates feel that this should never happen.

How Broad Should Teacher Participation in Educational Decision-Making Be?

It is generally conceded that a teacher has a unique position in the public sector. Although he is an employee of the school district, the teacher, unlike other employees, exerts a great deal of control and power over his students. Since this power is comparable to that of a parent, it is logical that the teacher should desire more voice in policy-making decisions of the school. His interest has gone beyond the normal hours, wages, and conditions of work. Unions and the NEA would say that everything should be negotiable. On the other hand, it is necessary that the school board not lose its power "to decide unilaterally what is good and best for the children and for the school system in general."[3]

The school board represents the general public who have the right to run the schools as they please. It would seem that the teachers would act best in an advisory position with relationship to the board. Curriculum is an area in which teachers can be expected to have skill. Their skill and knowledge should be expressed in the form of advice and not demands.

Any statutes which are to be passed concerning the rights of teachers must be as specifically stated as possible. Loopholes should be eliminated before passage of a bill. Professional legal help should be secured in the drafting of a bill.

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[3] Nolte & Linn, School Law for Teachers,(Danville: Interstate Printers and Publishers, 1963),p. 183.

Conclusions

Nearly all state statutes now state that the scope of negotiations should include all matters relating to employment conditions and employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment.

Moskow cautions since the subject matter of negotiations will vary greatly among school districts depending on the wishes of the parties involved, only a general description such as "salaries and conditions of employment" should be included in a statute. Attempts to define the scope more precisely may result in unanticipated exclusion of certain appropriate subjects or automatic inclusion of inappropriate topics.

Therefore, it is the consensus of this task force to recommend a statute that includes wages, hours and conditions of employment. As policies and administrative processes are modified, revised, and improved, the society which is served by any agency of the public sector must have faith in the wisdom, care, patience, forebearance and sound judgement of the individuals and groups of individuals involved.

A new method or procedure for reviewing any service is always available to society if the trust they have placed in the hands of the public sector is abused.

Respectfully submitted,

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THE PROBLEM OF IMPASSES

Task Force Group G

Legislation giving teachers the right to enter into negotiations or bargaining with Boards of Education carries with it the assumption that the common interests of both groups outweigh conflicting interests and that a broad area of agreement can be found in the course of the negotiations.

Impasse Defined

There are occasions, however, when the groups are unable to arrive at a common agreement, and each is convinced that agreement can be reached only if the other concedes to him. It is at this point that an impasse is reached.

It is therefore necessary to include in legislation not only the right to negotiate, but a means by which impasses may be resolved.

There are two means, self-help and outside help, by which impasses may be resolved.

Self-help is the process of using one or more members from each bargaining group to attempt to make clear their group's exact position on the issues at hand. Many times an impasse will occur because of the choice of words used, meanings implied, or basic philosophies not defined.

If both groups are able to state their positions to the satisfaction of the other, the need for a third party as mediator can be eliminated, thus saving much time and expense. The proceedings of such a joint effort should be put in writing and agreed to by both parties.

In the event that the impasse cannot be broken by cooperative group effort, some impartial third party must be obtained; it is this third party's responsibility to determine and explain to each bargaining party how the other feels and sees the situation. The third party's findings should also be reduced to written form.

Two points of view can be identified (AFT-NEA) in the handling of impasses through the use of state legislation.

The AFT, on reaching an impasse, will usually resort to some sort of appeal--a public demonstration; informational picketing; advertisements; marshalling of support from the labor movement and parent and civic organizations. Failing to move the board from its position, the members often set a strike date.

The NEA believes that every possible effort to reach an agreement should be made before work stoppage occurs, but their sanctions policy evidences that they hold work stoppages by teachers morally justified under certain limited circumstances.

The NEA strongly favors the inclusion of impasse procedures in written agreements signed by its local affiliates. In fact, written agreements must contain an impasse procedure to be classified as a Level III agreement. The Association has emphasized the desirability of educational channels for resolving impasses. It suggests the use of an advisory board to recommend settlement terms to the parties. If this procedure is not effective, either party may request the state commissioner of education to appoint an individual or committee to recommend a settlement. The final step on refusal of either party is that the commission shall so notify the State Board of Education.

One point of impasse is created by the inability of the two parties to agree on a basic contract (package). Another point of impasse can develop regarding interpretation or implementation of terms of a contract.

Usually the lack of agreement on a basic contract is the more serious type of impasse. Such impasses have led to the majority of serious strikes and sanctions which have taken place to date.

Impasse reduction techniques and rationales are as follows:

A. Conciliation--a term often used in the same sense as mediation. It is a first step which could then lead to mediation involving the services of a third party whose purpose is to help the negotiating parties reach a voluntary agreement without any form of coercion.
One view is that there is really very little difference between conciliation and mediation and therefore it is difficult to determine where one ends and the other begins. Conciliators do not recommend terms but mediators do. The main objective of conciliation as well as mediation is to keep negotiations from breaking down.

B. Mediation-- this is an action that continues the negotiation process but with the assistance of a third party who is invited in to assist in achieving a settlement. Either or both parties may request mediation. The mediator seeks to understand the issues that divide the parties and strive to reconcile opposing points of view. He proposes alternatives and promotes compromises. Separate and joint sessions are held in an effort to achieve consensus. Mediation is a voluntary process and recommendations are purely advisory and non-binding.

C. Fact Finder-- a neutral fact finder is authorized to mediate a dispute in which he has been selected or appointed. He may confer individually with each party during mediation without the presence of the other party to the dispute.

The parties may offer evidence they desire and shall produce additional evidence as the fact finder deems necessary. The fact finder may make inspections in connection with subject matter of the dispute after appropriate notice to the parties, who may be present at such inspection.

The disputing parties resume their mediation after the fact finder's report is given. Recommendations may or may not be given.

D. Advisory Arbitration--a person or agency appointed by agreement of the parties has the right to hold hearings and make an award which is, however, merely advisory to the parties but not binding or obligatory upon them. However, because the award is made by an arbitrator, public pressure may be heavy enough to force the parties to abide by the arbitrator's ruling.

E. Binding Arbitration--both parties have agreed to abide by the award made by the arbitrator.

The principal advantages are:

(1) Arbitration allows for settlement of cases not covered by law, not eligible for court hearings or not serious enough for court action.

(2) The disputing parties can select their own arbitrator. In this way they can submit their dispute to someone who has had special training and experience in the matter under consideration.

(3) The proceedings are usually less expensive and much quicker than judicial experience.

F. The Strike-- an action of last resort taken by employees when an extended impasse in negotiations occurs, which results in work stoppage or withdrawal of services.

In most instances specific prohibition against strikes and work stoppages is included in the law. Yet with increasing frequency, public employees are striking. Even when there are tough laws such as in Ohio which calls for the firing of every public employee who goes on strike, this does not prevent thirty strikes from taking place during the past year.

What is now clear is that anti-strike laws do not work and organized public workers are increasingly taking the position that negotiations without the ultimate weapon of the strike which--used or not--brings gain to private employees.

One point of view about strikes is that they are morally justifiable under certain conditions but a distinction needs to be drawn between work stoppage as an expression of civil protest against obvious unfair treatment and its adoption as a regular way of life.

Labor mediator Theodore Kheel proposes enjoining only those strikes that affect public health and safety; others, he feels can be managed within the strategics of arbitration.

If strikes in public employment are specifically prohibited by law, there should be some procedure for depriving employees of the right to use these pressure tactics.

A view by George Taylor favored a law obliging the proper officials--Governors, Mayors--to seek a court injunction as soon as they saw a strike coming, rather than waiting until the actual walkout.

Most strikes among teachers occur prior to the adoption of an agreement--when both parties fail to reach a negotiating agreement. In addition, strikes occur when there is a lack of sufficient knowledge, and/or a breakdown in communications.

When professional negotiation procedures are used in good faith by both parties with adequate use of mediation and fact-finding the need for a strike is lessened.

As the teachers and board members become more informed, the more sophisticated the negotiations and the more mature their judgment. A well-informed superintendent is an asset.

Should a strike occur after the agreement is signed, perhaps negotiations have broken down, or the agreement may not be inclusive enough (it may not contain a level III agreement) or the terms defined.

The impasse reduction techniques that have been successfully applied in the private sector cannot always be used successfully in the same manner in the public sector.

The techniques of conciliation, mediation and fact finding may be considered as presenting the least difficulty, as viewed from a Board of Education position since they all result in recommended action only.

The techniques of arbitration are more difficult to apply in the public sector and particularly in education. This is true because teachers and school boards are reluctant to accept binding arbitration.

Other factors that have made it difficult to apply impasse reduction techniques in the public sector have been the unwillingness of the public to accept public employees having the right to bargain and strike, the lack of legislation granting public employees the rights to negotiate that are granted private employees and the disagreement between the NEA and the AFT in the most effective way of handling impasses.

Conclusion

Assuming legislation is enacted making negotiations mandatory for Boards of Education, provision should be included that would resolve impasses.

From time to time there are bound to be good faith disagreements over the interpretation or application of a negotiated agreement.

The argument has been presented that it is unrealistic to suggest arbitration as a means of settling an impasse because it forces a board of education to relinquish its responsibilities to an outside source. On the other hand, fact finding or mediation can be an effective technique but may become a routine procedure. If it does become routine, it loses its major effectiveness in being able to create public interest, and consequently public opinion is not brought to bear in the resolving of differences.

It is considered advisable that impasses be brought to a conclusion as quickly as possible in the public employment sector. To accomplish this, legislation should include provision for mediation and fact finding with recommendations if an impasse is reached during the period of negotiating an agreement. The cost of fact finding is to be shared equally.

If the impasse is reached during contract negotiations the legislation should provide for fact finding and if an agreement is not reached within a thirty-day period after the fact finding report, the impasse should be subject to compulsory arbitration. The cost of the arbitration will be determined by the arbitrator.

This task force realizes that the above recommendations have been covered in a most superficial manner, but it is hoped that the ideas presented here will in some way aid in the formulation of adequate and equable legislation.

Respectfully submitted,

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THE PROBLEM OF ENFORCEMENT AND ADMINISTRATION

Task Force Group H

The question of formulation of an administrative agency to govern and control collective bargaining in the public sector is a most difficult one, especially in view of the fact that this yet unmade law has not specified who should be covered; what is negotiable; and how impasses should be handled. For the sake of this report the task force has to assume that all public employees in a non-supervisory role would be covered by the law and thus be under the control of the agency to govern collective bargaining in the public sector.

The items to be negotiated are assumed to fall into the following categories: (1) wages, hours, and conditions of work; and (2) making of educational policies.

It must also be assumed that the agency is totally responsible for the resolution of disputes when impasse has been reached by the negotiating parties.

Present Practice

In order to determine what the most effective administrative agency to govern and control collective bargaining in the public sector might be, the task force reviewed the present practice in those states having statutes involving collective bargaining in the public sector.

The new, evolving "Public Sector" Collective Negotiation Laws enacted by a few states do not reflect a definite trend toward a single method of establishing the administrative function of control. (See Table I.)

TABLE I

STATE PRACTICES OF ADMINISTRATION FOR "THE LAW OF COLLECTIVE BARGAINING"[1]

Year of Enactment	State Involved	Administrative Agency
1962	Alaska	Unspecified
1965	California	Local Control-"State"
1965-67	Connecticut	*Ad hoc* impartial, Board of Arbitration
1965	Florida	County Board of Education
1965	Massachusetts	Massachusetts Labor Relation Board
1965	Michigan	Michigan Labor Mediation Board
1967	Minnesota	Local Board of Education
1967	Nebraska	Local Board of Education
1966	New Hampshire	Unspecified
1966	New Jersey	Local School Board
1967	New York	Public Employment Relations Board
1965	Oregon	Local School Board
1966	Rhode Island	State Labor Relations Board
1967	Texas	Local School Board
1965	Washington	Unspecified
1959-61	Wisconsin	Wisconsin Employment Relations Board

Administrative Agency

RECAP: Local or County School Board or Town - 8 states; Public Employment Relations Board - 5 states; Unspecified - 3 states

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[1] "Background Material On Collective Bargaining for Teachers", Dr. M. Chester Nolte and Mr. John Phillip Linn, University of Denver.

It appears at this point in history that a local administrative agency has a slight edge over Public Employment Relation type Board of Control. It is felt the sovereignty of local control is being challenged in this new professional or public evolvement of personnel relations. A separate "Administrative Agency" with no political ties seems to be evolving to administer this Public Negotiation Law.

Arguments for using an existing agency are that they are less costly; easier selling point to the state legislature; and immediate implementation of the law. However, the task force believes that the unique problems of negotiations in the public sector necessitates the organization of a complete new body not hampered with innate biases due to a vested interest in the existing agencies.

The new agency should be a separate body composed of three members appointed by the governor in accordance with power delegated by the state legislature. The only provision being that no more than two members shall be of the same political party. The term of office for the original group shall be one, two and three years respectively. All subsequent appointments shall be for a three year term.

The duties performed by the agency should be (1) to oversee the implementation of the Bill; (2) to conduct elections, upon request, to determine the bargaining unit; (3) to help parties, who can't reach agreement, settle their disagreements; (4) to appoint mediators; and (5) to appoint a fact-finding board.

The concept in the general function of the agency is one that encourages local settlements of all issues in collective negotiations. This premise then utilizes the self-help concept to the maximum degree possible.

In the event that self-help is unsuccessful , the groups then go to mediation, fact-finding and finally to arbitration. All of these steps are advisory in nature and not binding.

The agency should have the authority to set up mediation requirements on its own motion, offering a list of skilled mediators, with sound administrative practice. This list might include any competent person from any walk of life, not necessarily from the field of education. However, the mediator must be selected by joint agreement, and the cost must be shared jointly. For this reason, it is advisable that only one be selected. Every effort should be made to reach agreements before seeking this outside help.

In the case of an impasse at this level the agency shall appoint a fact-finder, agreed upon by both parties, and sharing the cost jointly. This step is to be discouraged because it relieves the bargaining parties of their responsibiliites to solve their own disputes and it does cost considerably. The agency, we believe, should be an open-ended technique for dealing with bargaining impasses.

The agency should have the right and power to set up rules and regulations within the framework of the law and interpret the intent of these rules and regulations to such an extent as to resolve any disputes by either or both parties involved in collective negotiations. This broad power would enable the agency to rule on any disputes charging unfair labor practices.

Its authority shall be to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions and effectuate the purpose of the law.

The agency should have the authority and power, by law, to hold hearings, subpoena witnesses, administer oaths, take the testimony or deposition of any person under oath, to issue subpoenas duces tecum, to require the production and examinations of any governmental or other books or papers relating to any matter pending before it and to take such other action as may be necessary to discharge its powers and duties.

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THE BARGAINING TEAMS

Who wins or loses when teacher groups bargain with their board of education? This question has intrigued students of collective bargaining since its introduction into the educational picture. It seemed to be the concensus of the four bargaining teams in the work conference that collective bargaining allows both sides of the table to win where bargaining is done in good faith, where the rights of both sides are observed, and where viable solutions are arrived at. But how can both sides win at the bargaining table? The concensus seemed to be that through increased understanding between the parties, coupled with improved communications, and the opportunity of teachers to be included in the democratic decision-making process involving professional judgment and involvement, nobody wins except the children themselves.

The claim has been made that collective bargaining is a form of democracy--that the striking of a balance of power between teachers and governing boards for the first time allows professionals and laymen to realistically approach common problems together without fear that governmental "sovereignty", paternalistic school administration, or militant activism shall intrude to warp or skew the decision. While some may not agree with the claim, nonetheless, a wider involvement of all personnel in the decision-making process is evidenced in those situations in which teachers take an active part in negotiations with boards of education. The fact that boards must give up some of their "prerogatives" in order to negotiate in no way negates the claim where viable solutions to educational problems are approached in the spirit of good faith bargaining.

Thus, it is not inconceivable that both sides may win when better educational opportunities for school children result. The long-standing need for better communications between educators and lay public, the possibility of increased clarification of roles and directions, and the improved morale of staff personnel make the task of utilization of the bargaining process eminently worth the risk . There is much to be gained, and very little to lose when teachers and boards enter into meaningful dialogue on pressing problems in education.

One postulate of collective bargaining is that the parties are mutually dependent upon each other, and each needs what the other has to offer. When, in spite of the adversary format inherent also in the collective bargaining process, the two parties reach mutually acceptable consensus, it may indeed be true that neither side wins or loses--both sides gain a great deal through the process, and both sides lose where better educational opportunities do not result. More practice in the use of the processes under study here will ultimately result in victory for everybody, but more importantly, for school children themselves.

The issues. Four bargaining teams were formed based on the results of the Labor-Management Attitude Questionnaire. Each team had three members assigned to represent the teachers' organization, three to represent the board of education, a recorder, and a chairman who was also the impasse-breaker in case of deadlock. Each bargaining team was asked to bargain on seven issues: 1) exclusive representation; 2) dues check-off; 3) salaries; 4) hospital and medical expenses to be shared by the board; 5) duty-free lunch periods; 6) a duty-free preparation period; and 7) the regulation of class size. All of the teams completed all seven of the issues within the time allotted to this activity. The results of the bargaining sessions are reported in Table II.

Post-session evaluations. At the close of the bargaining sessions, Question #11 on the questionnaire dealt with the comments which participants had concerning their experiences in the bargaining sessions. Following are some of the comments:

"I gathered a greater insight into the general problems of negotiations in the bargaining sessions."

"The fact that positions for or against particular proposals can be logically presented and defended and logically countered without resort to emotional displays was an eye-opener to me."

"I learned that negotiators must be well-prepared -- must do their homework if they are to succeed in these bargaining sessions."

"Becoming aware of the kinds of information needed in negotiations was very satisfying to me. Seeing how this information could be utilized to your team's advantage was exciting. Caucusing to get a concensus of opinion for your team was a unifying, team-welding experience which I enjoyed immensely."

On the other hand, participants felt that in the simulated situation used in the conference, some "reality" was lacking.

"I felt that I would have enjoyed observing the real "pros" at work at the table. I felt that I was called upon to participate before I really knew very much about the collective bargaining process."

"It would have been useful to have had formal instruction from knowledgeable negotiators on the legal aspects of bargaining, and on the little techniques which raise it to a science. I felt these were lacking in the conference."

TABLE II

OUTCOMES OF THE BARGAINING SESSIONS

ISSUE	TEAM #1	TEAM #2	TEAM #3	TEAM #4
1. EXCLUSIVE REPRESENTATION	Board Rejects	Board Accepts	Board Accepts-2 Year period	Board accepts. REA member may sit in negotiation. Also helps determine agenda.
2. DUES CHECK-OFF	Yes, for both groups	Yes-teachers share costs	Yes	Board reject but will consider later
3. SALARIES	$400 and be able to negotiate next 2 yrs.	$400	$350	$400
4. HOSPITAL AND MEDICAL PLAN	Board pay one-half	Board pays all	Board pays one-fourth	Board pays one-fourth
5. DUTY-FREE LUNCH PERIODS	40 minute period	30 minute period	Board will hire teacher aides for 4 hours per day per school	50 minute period
6. PREPARATION PERIOD	50 minute period	Board accepts, teacher aides to be hired		Board will hire aides at rate of $50 per teacher per school year
7. CLASS SIZE	30 students per teacher, if possible	½ of teacher's request, i.e. $130,000	Board rejected but will try to put up $130,000	Board rejects but will study further

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